

## **TIMOR-LESTE**

Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. President Jose Ramos-Horta was head of state. Prime Minister Kay Rala Xanana Gusmao headed a four-party coalition government formed following free and fair elections in 2007. International security forces in the country included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which was under the direct control of the government. The national security forces are the National Police (PNTL) and Defense Forces (F-FDTL). While the government generally maintained control over these forces, there were problems with discipline and accountability.

Serious human rights problems included police use of excessive force during arrest and abuse of authority; perception of impunity; arbitrary arrest and detention; and an inefficient and understaffed judiciary that deprived citizens of due process and an expeditious and fair trial. Domestic violence, rape, and sexual abuse were also problems.

### **RESPECT FOR HUMAN RIGHTS**

#### **Section 1 Respect for the Integrity of the Person, Including Freedom From:**

##### **a. Arbitrary or Unlawful Deprivation of Life**

There were no politically motivated killings by the government or its agents during the year; however, on May 7, a group of F-FDTL members allegedly beat two men on a beach in Dili, one of whom was subsequently found dead. At year's end the case was under investigation by the Prosecutor General's Office.

On December 28, a PNTL officer shot and killed a 25-year-old man in Dili. A second man suffered injuries in the same incident. The PNTL suspended the officer and referred the case to the Prosecutor General's Office. At year's end the investigation continued.

On February 27, the government brought charges, including attempted homicide and conspiracy, against a group of 28 individuals for their alleged roles in the February 2008 nonfatal shooting of President Ramos-Horta, during which the

leader of the attackers, Major Alfredo Reinado, was shot and killed. The trial began on July 13 and continued at year's end.

The prosecutor general declined to pursue charges against an F-FDTL member who shot and killed a civilian in April 2008 in Bobonaro District. The civilian reportedly threatened the F-FDTL member with a machete.

In October 2008 the Baucau District Court sentenced PNTL intelligence officer Luis da Silva to six years' imprisonment for the killing of a member of then candidate Xanana Gusmao's security detail at a political rally in Viqueque in 2007.

In November the prosecutor general cited insufficient evidence and closed the inquiry into the 2007 case of a PNTL unit firing into a crowd in Viqueque, killing two.

Four trials and 15 investigations continued against individuals accused of illegal actions during the 2006 political crisis, which, according to a UN Special Commission of Inquiry estimate, caused 38 deaths, 69 injuries, and the displacement of approximately 150,000 persons. In December the prosecutor general, citing lack of evidence of unlawfulness or culpability, dismissed weapons distribution charges against F-FDTL Commander Major General Taur Matan Ruak, former defense minister Roque Rodriques, Brigadier General Lere Anan Timur, Colonel Falur Rate Laek, and Colonel Manuel Soares Mau Buti.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment of civilians by police and military personnel. Parliamentarians, nongovernmental organizations (NGOs), UNMIT, and the Office of the Ombudsman (Provedor) for Human Rights and Justice received numerous complaints of use of excessive force by security forces. Most involved beatings, use of excessive force during incident response or arrest, threats made at gunpoint, and intimidation.

On June 7, F-FDTL personnel beat at least two civilians and reportedly pointed their weapons at UNPOL members after breaking

up a fight between two martial arts groups in Maliana, Bobonaro District. At year's end a criminal investigation was ongoing.

Also in June an F-FDTL member, using his rifle, allegedly threatened and beat a residential security guard. The guard filed official complaints with both the F-FDTL and PNTL, but it was not clear that an investigation was opened.

On September 26 a group of F-FDTL members physically assaulted a Timorese woman and two foreign military personnel. One of the F-FDTL members involved was expelled from the military on December 22.

On November 21, an off-duty policeman allegedly shot and seriously injured Mateus Pereira in Vila Verde, Dili. The secretary of state for security said the case was under investigation.

On August 8, a crowd in Suai severely beat Indonesian citizen Martenus Bere until the police intervened and took him into custody. Bere commanded one of the pro-Indonesian militias during the 1999 popular consultation that led to Timor-Leste's independence, and the UN Serious Crimes Unit indicted him for crimes against humanity in 2003. He crossed into Timor-Leste to attend his father's funeral and was recognized by local citizens (see section 5).

The Ombudsman's Office investigated 40 cases of mistreatment committed by PNTL or F-FDTL personnel during the state of siege that lasted from February to May 2008, after the shooting of President Ramos-Horta. On June 29, the Office of the Ombudsman presented its findings to parliament. At year's end the report had not been made public. UNMIT received allegations of 58 incidents of mistreatment by F-FDTL and PNTL members during the state of siege. Some cases were investigated by authorities and forwarded to the Prosecutor General's Office, but no indictments were filed.

On January 26, the Bacau District Court sentenced the former Bacau PNTL subdistrict commander Fransiso Ersio Ximenes to one year's imprisonment for using coercion to obtain information from a suspect in January 2008. Ximenes admitted that he beat the victim with a baton during questioning. His sentence was suspended for two years, and at year's end he remained on active duty in Bacau.

At year's end there were no developments in the January 2008 arrest of three PNTL officers in Suai for allegedly having participated in gang-related violence that resulted in 15 persons injured and 20 houses burned, or the May 2008 beating of four residents of Dili's Quintal Boot neighborhood by PNTL Task Force members.

On June 30, two police officers accused of the November 2008 assault of a woman in Ossu Subdistrict, Viqueque District, were sentenced to two and six months' suspended imprisonment. The two remained on active duty.

On February 10, the Court of Appeal upheld a four-year prison sentence for a PNTL officer found guilty of attempted manslaughter for the shooting and injuring of a civilian in Covalima in 2007.

At year's end there were no developments in the following 2007 incidents: the case in which an armed group wearing F-FDTL uniforms attacked and burned the homes of six families in Dili, the case in which six to 10 F-FDTL uniformed persons attacked several homes near the national hospital, and the case in which F-FDTL members detained and allegedly beat approximately 10 persons for disorderly conduct.

#### Prison and Detention Center Conditions

Prison conditions generally met international standards, although there were no separate facilities for women and youth offenders. There were two prisons run by the civilian authorities, located in Dili (Becora) and Gleno. Together the two prisons held 223 individuals (reliable estimates of the designed capacity of the prisons were not available). The vast majority were pretrial detainees charged with homicide, robbery, or sexual assault. Four of the prisoners were women, and 10 were juveniles. The F-FDTL operated a military prison facility at its headquarters in Dili without civilian oversight.

UNMIT personnel noted allegations of mistreatment of prisoners by prison guards during the first 72 hours of imprisonment and a lack of special facilities for the mentally ill, who consequently were detained with other prisoners.

Despite some improvements with regard to access to food and water, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding. The lack of detention cells at some police stations

discouraged the initiation of formal charges against detained suspects.

The government permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The Ombudsman's Office was able to conduct detainee monitoring in Dili.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated, often because magistrates or judges were unavailable.

Role of the Police and Security Apparatus

The president is commander-in-chief of the armed forces, but the chief of defense, the F-FDTL's senior military officer, exercised effective day-to-day command. Civilian secretaries of state for public security and defense oversaw the PNTL and F-FDTL, respectively.

UNMIT continued efforts to reform, restructure, and rebuild the PNTL in the wake of its collapse during the political crisis of 2006. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end approximately 2,900 officers had completed the UNPOL program.

Each of the country's 13 districts has a district PNTL commander who normally reports to the PNTL general commander. In spite of improvements due to the UNPOL training, the PNTL as an institution remained poorly equipped and undertrained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption. An opposition parliamentarian and an international NGO criticized the emphasis on a paramilitary style of policing, which includes highly armed special units and does not sufficiently delineate between the military and the police.

Some police officers did not pass the vetting process and were on suspension pending further investigation. UNMIT conducted human rights training sessions for senior PNTL personnel, and the PNTL received training from bilateral partners.

Efforts were made to strengthen internal PNTL accountability mechanisms. A Professional Standards and Discipline Office (PSDO) was established as early as 2004. Between November 2008 and June, the number of pending cases in the PSDO decreased from 373 to 42. The PSDO reportedly found almost half the cases it investigated to be "substantiated" and forwarded its findings to the appropriate authorities; however, it was unclear what actions, if any, these authorities took. At the district level there were serious obstacles to the functioning of the PSDO. PSDO officers were appointed by, and reported to, the PNTL district commander. Persons with complaints about police behavior experienced obstacles when attempting to report violations including repeated requests to return at a later date or to submit their complaint in writing. The Organic Police Law promulgated in February does not provide for guaranteed participation from the civilian sector in police oversight.

On February 26, the UN Security Council instructed UNMIT to begin handing over primary policing responsibilities to the PNTL once PNTL personnel in a particular district demonstrated the ability to perform those responsibilities adequately. Of the 13 districts, handovers occurred in Lautem (May), Oecussi (June), Manatuto (July), and Viqueque (December).

More than 750 ISF personnel from Australia and New Zealand supported the police and security forces.

#### Arrest Procedures and Treatment While in Detention

The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. The extreme shortage of prosecutors and judges outside of the capital contributed to police inability to obtain required warrants.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of an arrest or detention and also provide the right to a trial without undue delay. During these hearings the judge may also determine whether the suspect should be released because evidence is lacking or the suspect is not considered a flight risk. The countrywide shortage of magistrates meant that police often made decisions without legal authority as to whether persons arrested should be released or detained after 72 hours in custody. This contributed to an atmosphere of lawlessness and impunity. Judges may set terms for conditional release, usually requiring the suspect to report regularly to police.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants at no cost. Public defenders were in short supply. Most were concentrated in Dili and Baucau, with other areas lacking the same level of access. Many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported that they had never seen their lawyer, and there were concerns that some low priority cases were delayed indefinitely while suspects remained in pretrial detention.

The pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

e. Denial of Fair Public Trial

The law provides that judges shall perform their duties "independently and impartially" without "improper influence" and requires public prosecutors to discharge their duties impartially. However, the country's judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multisourced legal regime, and the fact that the majority of the population does not speak Portuguese, the language in which the laws were written and the courts operate. Access to justice was notably constrained.

The court system consisted of a Court of Appeal and four district courts (Dili, Bacau, Suai, and Oecussi). The constitution calls for a Supreme Court and high administrative, tax, and audit courts as well as other administrative courts of first instance. It also allows for military courts and maritime and arbitration courts. At year's end none of these courts had been established. Until a Supreme Court is established, the Court of Appeal remains the country's highest tribunal. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general--independent of the Ministry of Justice--is responsible for initiating indictments and prosecutions.

Progress in establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and

defense attorneys was slow. By year's end, 14 judges, 14 prosecutors, and 11 public defenders of Timorese nationality were assigned to the country's judicial institutions. However, the system remained heavily dependent on international judges, prosecutors, and public defenders.

Judges, prosecutors, and public defenders assigned to other districts outside Dili often did not reside in these areas. Their intermittent presence continued to severely hamper the functioning of the judiciary outside the capital.

The trial process often was hindered by nonattendance of witnesses due to lack of proper notification or lack of transportation. The shortage of qualified prosecutors and technical staff in the Prosecutor General's Office hampered its work and resulted in a large case backlog. International prosecutors continued to handle sensitive cases related to the 2006 crisis. At year's end there was a nationwide backlog of approximately 5,200 cases. The length of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

#### Trial Procedures

The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except in sensitive cases, such as crimes involving sexual assault, trials are public; however, this principle was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime was complex and inconsistently applied, but the government adopted a new criminal procedure code and a penal code; the latter came into force on June 7. The criminal procedure code was translated into Tetum (the language spoken most widely in the country), but the penal code was available only in Portuguese.

The Court of Appeal operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in



English, Portuguese, Indonesian, and Tetum. Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese but were seldom available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations into Tetum were often incomplete summaries.

On July 6, a witness protection law came into force, but protection arrangements remained lacking. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against them or their families. Court personnel also reported increased concern regarding their own safety.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

Civil judicial procedures were beset by the same problems encountered by the judicial system as a whole. The ombudsman for human rights and justice can sue government agencies/agents for alleged human rights abuses; however, the ombudsman's approach has been to refer allegations of abuse to the prosecutor general or the leadership of the PNTL or F-FDTL.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

A 2003 land law broadly defines what property belongs to the government and was criticized as disregarding many private claims.

Many Dili residents arrived as internal migrants and occupied empty houses or built houses on empty lots. The majority of properties in Dili are deemed state property, and in previous years the government evicted persons from land identified as state property at times with little notice and with no due process.

Section 2 Respect for Civil Liberties, Including:

### Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals generally could criticize the government without reprisal. The criminal code, which came into force on June 7, decriminalizes defamation. A defamation case brought by the minister of justice against a journalist was dropped on June 15.

There were three daily newspapers, three weeklies, and several newspapers that appeared sporadically. All frequently criticized the government and other political entities editorially.

Television and radio broadcasts were the primary sources for news. However, there was often no reception outside Dili and district capitals, and broadcasts were often irregular due to technical or resource problems. Many persons did not have access to television or radio.

On September 2, members of the media complained that the PNTL interfered with their ability to cover the arrest of three individuals at a political event on August 31.

In December a journalist with *Tempo Semanal* was subpoenaed as a witness in the trial of the 28 suspects in the February 2008 attack on President Ramos-Horta; the journalist had conducted a telephone interview with an alleged leader of the attackers after the events (see section 1.a.). The journalist invoked his rights to protect his sources, and the judge permitted him to leave without providing testimony.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. Internet access was extremely limited. According to International Telecommunication Union statistics for 2008, approximately 0.2 percent of the country's inhabitants used the Internet.

### Academic Freedom and Cultural Events

The government generally did not restrict academic freedom or cultural events. Academic research on Tetum and other indigenous languages must be approved by the National Language Institute.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law on assembly and demonstrations establishes guidelines to obtain permits to hold demonstrations and requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government buildings or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification, and the 100-yard regulation was rarely observed. However, on August 31, the PNTL detained three individuals at a political event for not having a proper permit and for demonstrating too close to government-owned port facilities. The detainees were released within 72 hours, and there were no reports of mistreatment.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

Outside the capital, non-Catholic religious groups were at times regarded with suspicion. There were reports that Catholics who converted to other religions were subjected to harassment and abuse by community members, and there were instances of Protestant churches being harassed during the year.

There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf/](http://www.state.gov/g/drl/rls/irf/).

d. Freedom of Movement, Internally Displaced Persons,  
Protection of Refugees, and stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel by road to the western enclave of Oecussi required visas and lengthy stops at Timorese and Indonesian checkpoints at the border crossings.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs)

In June the government formally closed the last of the IDP camps set up after the 2006 political crisis displaced an estimated 150,000 individuals. Approximately 3,000 persons remained in transitional shelters pending final resettlement. The Ministry of Social Solidarity administered reintegration assistance in coordination with local and international NGOs.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. The laws provide for the granting of asylum or refugee status, and the government established a system for providing protection to refugees. The government granted refugee status or asylum in the past; however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravened the 1951 convention. These advocates also expressed concern that no written explanation is required when an asylum application is denied. In practice the government provided

protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

On October 9, voters chose village leaders in local elections held in 442 Sucos (villages) throughout the country.

The president and parliament were elected in generally free and fair national elections in 2007. The government headed by Prime Minister Gusmao is a four-party coalition controlling 37 seats in the 65-seat parliament.

There were 19 women in parliament. Women held three senior ministerial positions--finance, justice, and social solidarity--one vice-minister position, and one secretary of state position.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

### Section 4 Official Corruption and Government Transparency

The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. By law the Office of the Ombudsman for Human Rights and Justice is the institution charged with leading national anticorruption activities and has the authority to refer cases for prosecution.

The Ombudsman's Office was investigating several high-profile corruption cases at year's end, including accusations against the prime minister, involving government contracts awarded to a company affiliated with his daughter, and the minister of justice.

The country does not have financial disclosure laws. Prime Minister Gusmao demanded that all cabinet officials in his government complete financial disclosure documents, but by year's end none had done so.

The law stipulates that all legislation, Supreme Court decisions (when the court is established), and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and accounts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although by law it is to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. NGOs also played an active role in assisting and advising in the development of the country. The government generally cooperated with these organizations, but during the year there were instances of security authorities preventing or resisting efforts to monitor human rights compliance.

The UN Integrated Mission in Timor-Leste, originally established pursuant to a UN Security Council (UNSC) resolution with its mandate extended by the UNSC of February 26, continued to play an important role in the country's development and cooperated closely with the government.

The Office of the Ombudsman is responsible for the promotion of human rights, anticorruption, and good governance, and the ombudsman has the power to investigate and monitor human rights abuses, corruption, and governance standards and make recommendations to the relevant authorities. The Ombudsman's Office was located in Dili and had limited ability to conduct outreach or other activities in the districts. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.

In July 2008 President Ramos-Horta and Indonesian President Yudhoyono publicly accepted the bilateral Commission on Truth and Friendship's (CTF) finding that gross human rights violations had been committed during and after the 1999 independence referendum. The report assigned "institutional responsibility" for such violations to the Indonesian Armed Forces. Presidents Yudhoyono and Ramos-Horta also accepted the report's other findings, conclusions, and recommendations. Neither government pursued individuals responsible for abuses at this time. On December 14, parliament adopted a resolution acknowledging the work and reports of the CTF and the Commission for Reception, Truth, and Reconciliation. The resolution instructed that legislation be drafted to implement the recommendations of the two reports and to establish an autonomous body to carry them out.

On August 30, the government released indicted war criminal Martenus Bere from detention without charge, trial, or proper court authorization. Bere, an Indonesian citizen, was the leader of the Lauksaur militia at the time of the 1999 popular consultation that put Timor-Leste on the path to formal independence from Indonesia. In 2003 the UN Special Crimes Unit indicted him for his role in the 1999 Suai church massacre, in which at least 30 civilians, including three priests, were killed as the church where they had taken refuge was attacked with grenades and burned. The crimes against humanity charges against Bere included murder, extermination, enforced disappearance, torture, inhumane acts, and rape. Article 160 of the constitution makes illegal "acts committed between the 25th of April 1974 and the 31st of December 1999 that can be considered crimes against humanity." The PNTL had detained Bere in Suai on August 8 after he entered the country from Indonesian West Timor.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

##### Women

Gender-based violence remained a serious concern. Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common as were long delays.

Authorities reported that the backlog of court cases led some communities to address rape accusations through traditional law, which does not always provide justice to victims. The definition of rape under the June 7 penal code appears broad enough to make spousal rape a crime, although that definition had not been tested in the courts.

Key legislation that would address legal gaps or establish clear guidelines to handle gender-based violent crimes had not been adopted by year's end.

Domestic violence against women was a significant problem often exacerbated by the reluctance of authorities to respond aggressively. Cases of domestic violence and sexual crimes generally were handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases and others preferring to handle them through mediation or as private family matters. VPU operations were severely constrained by lack of support and resources. Police at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

The new penal code makes "sexual exploitation of a third party" criminal but does not criminalize prostitution.

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

Women's access to family-planning information, education, and supplies was limited principally by economic considerations. Contraceptive use was low, although the Ministry of Health and NGOs promoted both natural and modern family planning methods, including the distribution of intrauterine devices, injectable contraceptives, and condoms. Maternal mortality was estimated at 660 deaths per 100,000 births, and less than one-quarter of deliveries took place with a skilled birth attendant. Both women and men had equal access to diagnostic and treatment services for sexually transmitted infections, including HIV.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property. Traditional cultural practices, such as payment of a bride price and occasionally polyandry, also occurred. Women were also



disadvantaged in pursuing job opportunities at the village level.

The secretary of state for gender issues in the Prime Minister's Office is responsible for the promotion of gender equality. UNMIT's Gender Affairs Unit also monitored discrimination against women.

Women's organizations offered some assistance to female victims of violence, including shelters for victims of domestic violence and incest, a safe room at the national hospital for victims of domestic violence and sexual assault, and escorts to judicial proceedings.

### Children

Children acquire citizenship both through birth within the territory of the country and by having a citizen parent. A Central Civil Registry registers a child's name at birth and issues birth certificates. The rate of birth registration was low.

The constitution stipulates that primary education shall be compulsory and free; however, no legislation had been adopted establishing the minimum level of education to be provided, nor had a system been established to ensure provision of free education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially lower than those for urban areas.

In rural areas heavily indebted parents sometimes provided their children as indentured servants as a way to settle the debt. If the child was a girl, the receiving family may also demand any dowry payment normally owed to the girl's parents.

There is no clearly defined age below which sex is by definition nonconsensual. Violence against children and child sexual assault was a significant problem. Some commercial sexual exploitation of minors occurred. The June penal code describes a vulnerable victim for purposes of rape as a "victim age less than 17 years" and provides an aggravated sentence. The penal code separately addresses "sexual abuse of a minor," which is described as one "age less than 14 years," and also separately addresses "sexual acts with an adolescent," which it defines as "a minor age between 14 and 16 years." The penal code also makes both child prostitution and child pornography crimes and defines

a "child" for purposes of those provisions as a "minor age less than 17 years." The penal code also criminalizes abduction of a minor, although it does not define what constitutes a minor for purposes of that section.

Following the closing of IDP camps during the year (see section 2.d.), only a small number of children remained in transitional settlements pending permanent resettlement of their families.

#### Trafficking in Persons

The Immigration and Asylum Act prohibits trafficking of adults and children for prostitution or for forced labor; however, there were reports that persons were trafficked to and within the country.

A local NGO estimated that more than 100 foreign prostitutes in the capital might be victims of trafficking, either forced into the commercial sex industry or subjected to exploitative conditions they had not agreed to. Several establishments in the capital were known commercial sex operations and were suspected of involvement in trafficking.

Although most trafficking victims in the country were in the sex industry, two men were rescued in the country's waters after being subjected to forced labor aboard a foreign fishing vessel.

The June penal code criminalizes "human trafficking," "enslavement," and the "sale of persons."

In July police conducted raids on two bars/brothels, freeing eight women identified as possible trafficking victims. However, credible reports indicated that some police and immigration officials colluded with such establishments or with those who trafficked foreign women into the country to work in them.

The government cooperated with various international organizations and local NGOs to assist trafficking victims. The government also provided documentation and exit assistance to three trafficked persons returning voluntarily to their home countries. The government granted temporary residence, on humanitarian grounds, to two trafficked persons who did not wish to return to their countries of origin.

The government facilitated a seminar for police, military, civil servants, NGOs, and government officials to increase understanding of international antitrafficking conventions and

to combat widespread ignorance about the trafficking issue. High-level officials served as keynote speakers at the workshops, and antitrafficking and gender-based violence posters containing emergency contacts for victims were distributed throughout the districts to assist potential victims.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

Although the constitution protects the rights of persons with disabilities, the government had not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems.

Training and vocational initiatives did not address the needs of persons with disabilities. In the past some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources; it was not clear whether this situation had improved. Mentally ill persons were imprisoned with the general prison population and were denied needed psychiatric care. An office in the Ministry of Social Solidarity is responsible for protecting the rights of persons with disabilities.

#### National/Racial/Ethnic Minorities

Some tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) continued, although this was greatly diminished from levels witnessed during the 2006 political crisis.

Relations were generally good between the ethnic majority and members of several small ethnic minority groups including ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law makes no reference to homosexual activity. Gays and lesbians were not highly visible in the country, which was predominantly rural, traditional, and religious. According to the East Timor Law and Justice Bulletin (ETLJB), the principal international NGO that runs an HIV-AIDS transmission reduction program excludes gays from its program. Aside from the ETLJB report, there were no formal reports of discrimination based on sexual orientation, due in part to limited awareness of the issue and a lack of formal legal protections.

#### Other Societal Violence or Discrimination

There were no formal reports of discrimination based on HIV/AIDS status.

### Section 7 Worker Rights

#### a. The Right of Association

The country has a labor code based on the International Labor Organization's standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience, a lack of organizational skills, and the fact that more than 80 percent of the workforce was in the informal sector. There are official registration procedures for trade unions and employer organizations.

The law provides for the right to strike, but few workers exercised this right during the year. The law on assembly and demonstrations could be used to inhibit strikes but was not used in this way.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

#### b. The Right to Organize and Bargain Collectively

While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

There are no formal export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Government regulations prohibit forced or compulsory labor, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The labor code generally prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18, as well as children under 15, can work. The minimum age does not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

e. Acceptable Conditions of Work

The labor code does not stipulate a minimum wage. The labor code provides for a standard workweek of 40 hours, standard benefits such as overtime and leave, and minimum standards of worker health and safety. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear whether they could avail themselves of this right in practice.